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Summary record of the 31st meeting
Held at Headquarters, New York, on Friday, 29 October 2004, at 3 p.m.

Chairman: Ms. Kusorgbor (Vice-Chairman) ..... (Ghana)
later: Mr. Kuchinsky (Chairman) ..... (Ukraine)

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* Items which the Committee has decided to consider together.

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The meeting was called to order at 3.15 p.m.

Agenda item 105: Human rights questions (*continued*) (A/59/225, 371 and 425)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/59/255, 319, 320, 323, 327, 238, 341, 360, 366, 377, 385, 401-404, 422, 428, 432, 436 and 525)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/59/256, 269, 311, 316, 340, 352, 367, 370, 378, 389 and 413; A/C.3/59/3)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/59/36)

1. **The Chairman** invited the Committee to continue its dialogue with the Special Rapporteur on violence against women.

2. **Ms. Stewart** (Canada) asked whether there were any particular commitments at the international, regional or domestic levels which the Special Rapporteur would like to see prioritized. Her delegation would also be interested in the Special Rapporteur's thoughts on the relationship between diverse forms of discrimination and between HIV/AIDS and gender inequality.

3. **Ms. Hastaie** (Islamic Republic of Iran) asked whether the Special Rapporteur was considering drawing up a plan for action for States and if so, how she might encourage States to be more responsive. She also wondered how the Special Rapporteur prioritized her work.

4. **Ms. Booto** (Democratic Republic of the Congo) thanked the Special Rapporteur for having made the point that violence against women knew no frontiers, for that confirmed that violence against women was not the sole concern of countries in situations of armed conflict. In that context, the Democratic Republic of the Congo, whose women had suffered and continued to suffer so greatly, urged the international community to spare no effort to help root out violence against women, which continued to plunge so many families into mourning.

5. **Ms. Kraav** (Estonia), referring to the meeting of women ministers held in Geneva during the sixtieth session of the Commission on Human Rights earlier in the year, said that, in the context of the growing conservative backlash on the issue of violence against women, she wished to reassure the Special Rapporteur that that meeting had not been a "one-off event" and that the Swedish and Estonian Ministers for Foreign Affairs would be organizing a similar event during the Commission's next session.

6. **Mr. Raja** (Indonesia) said the advancement and empowerment of women was a national priority in Indonesia. Gender mainstreaming was supported in all fields of development and civic life. As part of a decentralization process, local institutions were encouraged to be gender-responsive; at the national level a milestone had been reached in the recent general elections, when 30 per cent of all candidacies had been reserved for women. Legislation on the elimination of violence against women had recently been enacted.

7. Like the Special Rapporteur, he was heartened that so many States had become parties to the Convention on the Elimination of All Forms of Discrimination against Women. However, he wondered whether the Special Rapporteur believed that ratification of the Optional Protocol, on the right of petition, could be speeded up. In addition, in view of the universality of violence against women and the multiplicity of forms it took, he wondered how she saw the situation developing in the future.

8. **Ms. Al-Haj Ali** (Syrian Arab Republic) said her delegation would like to see the Special Rapporteur involved in the in-depth study on all forms of violence against women being carried out pursuant to General Assembly resolution 58/185.

9. **Ms. Ertürk** (Special Rapporteur on violence against women), replying to the representative of Canada, said it was vital for all Governments to reform their legislation to reflect their international commitments, for it was legislation that could block or pave the way for new solutions.

10. However, changing the law was no guarantee of a change in practice. Violence against women had to do with upbringing and what was required was a sensitization and transformation of society as a whole and the way it portrayed reality, notably through the media and education.

11. Another priority was the collection of data, in order to ascertain the extent of the problems and monitor progress in dealing with them.

12. The representative of the Islamic Republic of Iran had asked a question that usually came from NGOs. The commitment of Governments was vital, and it called for greater cooperation. She was working with Governments, within a mandate that had, after all, been established by Member States themselves.

13. In response to the comments of the representative of the Democratic Republic of the Congo, she said conflict was a continuum. It was true that armed conflict seemed to erode the mechanisms that might provide some protection to women and children in peacetime, but violence against women cut across times of war and peace. It was important to bear that in mind in order to ensure that definitions of violence were not selective.

14. She thanked the Government of Indonesia for its dynamism. She had also been very impressed by the Indonesian women's NGOs she had met. She continually stressed to Governments that to become a party to instruments such as the Optional Protocol did not imply any loss of sovereignty but should rather be seen as making it possible for States to deal with the issue.

15. The universality of the issue had to do with the overall subordination of women. It was important to unravel what had been called the "patriarchal knot" in order to address the multiplicity of systems underlying that subordination.

16. **Mr. Salama** (Chairman of the Working Group on the Right to Development) said the Working Group had made significant progress at its fifth session. The session had proved that the right to development was not an empty concept but could be the subject of concrete debate; that it was not merely a claim by the South on the North but had mutual benefits; and that it could be achieved on a consensual basis.

17. The Working Group had adopted a new approach in its deliberations, attempting to (a) avoid legal definitions and conceptual controversies; (b) accommodate the progressive nature of the realization of the right to development; (c) divide the problems of the right to development into smaller units; (d) use technical expertise to study those units; (e) encourage a "bottom-up approach" and rely on experiences on the ground; and (f) involve development institutions, NGOs and civil society in the realization of the right to development.

18. The Working Group had benefited enormously from the work of the independent expert on the right to development, whose two reports to the session (E/CN.4/2004/WG.18/2 and 3) had highlighted the relevance of the right-to-development framework in the context of globalization.

19. The high-level seminar held in Geneva in February 2004 had also provided useful input to the Working Group's deliberations. It had reflected in particular the emerging consensus among Member States, development agencies and international institutions on strengthening the global partnership for development.

20. Discussions at the seminar had rendered the distinction between the national and international dimensions of the right to development and the issue of their sequencing redundant. Simultaneous, coordinated action was what was required.

21. The seminar had highlighted the ongoing attempts by the United Nations system and international financial and development institutions to integrate all human rights into their programmes, but had also revealed a need for an ongoing, structured and multidisciplinary dialogue between those institutions in order to move forward with implementation of the right to development. The Working Group had recognized that it could act as focal point for such a dialogue and thereby create a favourable environment for those endeavours.

22. The Working Group had set up a high-level task force on the implementation of the right to development, comprising experts from five countries, which would provide the necessary expertise on specific issues to enable the Working Group to make credible recommendations. Various international institutions and agencies had also been invited to participate and major NGOs and leading research institutions had been contacted for input based on their practical experience. The first meeting of the task force would be held in Geneva from 6 to 10 December 2004. He called on all Member States to support its work, which would require additional efforts in terms of resources and commitment.

23. **Ms. Astanah Banu** (Malaysia) asked what contribution the Working Group and the high-level task force could make to the high-level meeting of the General Assembly to be held in 2005 in follow-up to the outcome of the Millennium Summit.

24. **Mr. Hof** (Netherlands), speaking on behalf of the European Union, asked in what way the Working Group could ensure that the human person remained the central focus of development and could facilitate individuals' enjoyment of the right to development.

25. The European Union did not consider it useful to pursue a legally binding instrument on the right to development. The primary responsibility for creating the conditions favourable to the realization of that right lay with States. The European Union would therefore like to know what other approaches States could usefully adopt to promote the realization of the right to development.

26. The European Union looked forward to the first meeting of the high-level task force and would like to know how the Chairman saw the future development of the role of the task force in support of the aims of the Working Group. It also wondered to what extent the Working Group could further cooperate with the Office of the United Nations High Commissioner for Human Rights to integrate human rights into development.

27. **Mr. Koubaa** (Tunisia) asked whether consideration of the right to development by a working group should continue indefinitely, given that the right to development was still seen by many as a right without content and the pursuit of a legally binding instrument inappropriate.

28. **Mr. La** Yifan (China) said the realization of the right to development was the responsibility of the State but the international community should also create an enabling environment in order to help developing countries realize that right. He therefore wondered what the response of the Working Group was to the large subsidies that were awarded to the agricultural and textile sectors, which had a negative impact on the right to development.

29. **Mr. Salama** (Chairman of the Working Group on the Right to Development), in reply to the representative of China, said that a limited number of topics would be assigned to the task force each year in order to focus its work. In reply to the representative of Tunisia, he said that he preferred to think in terms of approaches rather than products. The amount of controversy in the Working Group had decreased, and he believed that the seminars would create momentum and would help to develop a body of case law for the right to development.

30. He pointed out that a number of existing instruments, for instance the Cotonou Agreement, were essentially legally binding instruments on the right to development without describing themselves in those exact terms, because they helped States assume their responsibilities. The future of the Task Force would depend on the quality of the product; if it was helpful, it would be worth expending the extra resources to continue it. The Working Group saw its potential contribution to the 2005 review of implementation of the Millennium Development Goals in the assessment of the quality of coordination on the right to development.

31. **Ms. Al Haj Ali** (Syrian Arab Republic) asked how he saw the contribution of the high-level review in 2000 of follow-up to the 1995 Copenhagen Declaration as motivation to the Working Group.

32. **Mr. Saran** (India) said that the right to development had been under discussion for 20 years; he was therefore dismayed that the interim study would apparently not be submitted to the Commission on Human Rights until 2006. He asked how the Chairman of the Working Group intended to convey the urgency of the matter to the Subcommission on the Promotion and Protection of Human Rights. As for the debate over the national and international levels of implementation of the right, it was true of all human rights that the State had primary responsibility for their implementation. The first priority should be what could be achieved at the international level. His delegation would also like to know how the outcome document of the eleventh session of the United Nations Conference on Trade and Development (UNCTAD), held in São Paulo, Brazil, in June 2004, would figure in the deliberations of the Working Group

33. **Ms. Noman** (Yemen) said that globalization was intended to offer opportunity to all, but everyone did not enjoy its benefits equally. She would be interested to hear his ideas on how to bridge the gap between the developed and the developing countries.

34. **Mr. Salama** (Chairman of the Working Group on the Right to Development) said that the Working Group was attempting to be realistic by acknowledging that

there would never be perfectly equal opportunities for all people to benefit from globalization. The momentum of the eleventh session of UNCTAD would be helpful when the Working Group conducted its social-impact assessment.

35. In conclusion, he said that, in an era of globalization, no policy conceived at the national level could succeed without taking into account its international impact. The right to development was a right in principle but it had previously been applied only sporadically. Earlier approaches had not always been conducive to progress, but the debate on that issue had matured, and it was no longer seen as a simple question of a North/South divide.

36. **Ms. Huda** (Special Rapporteur on trafficking in persons, especially in women and children) said that, having been appointed by the Commission on Human Rights decision 2004/110, she valued the opportunity to meet with the Committee at the outset of her mandate, which she had taken up only three weeks earlier. Despite its clear human-rights dimension, trafficking was often perceived as a "law and order" problem and addressed within the crime-prevention framework. Victims of cross-border trafficking were prosecuted as illegal aliens rather than being treated as victims of a crime; women and young girls trafficked into the sex industry were charged with prostitution instead of receiving assistance.

37. In keeping with her mandate, she would focus on the human-rights aspects of trafficking in persons. Her actions would be guided by two basic principles: the human rights of trafficked persons would be at the centre of all efforts to combat trafficking and to protect, assist and provide redress to those affected; and anti-trafficking measures should not adversely affect the human rights and dignity of the persons concerned. She would also address trafficking in the larger context of migration and development.

38. A great deal of work had already been done by the Special Rapporteur on violence against women, the Special Rapporteur on migrants and the Special Rapporteur on the sale of children, child pornography and child prostitution. She would cooperate closely with all other special mechanisms to address the human-rights implications of trafficking. She would be producing annual reports to the Commission on Human Rights, and would begin by addressing the issue of demand, as mentioned in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, of the Convention against Transnational Organized Crime. In carrying out her mandate, she would be receiving reports on cases and intended to make country visits at the invitation of Governments.

39. She hoped to be in a position to provide advice on policy and action related to trafficking and to mobilize consensus by maintaining the focus on its human-rights aspects, with particular attention to measures to protect children against trafficking. The general framework for her action was represented by the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) developed by the Office of the High Commissioner for Human Rights. She would also work closely with the United Nations Office on Drugs and Crime.

40. **Mr. Miller** (United States of America) said that trafficking in persons was one of the twenty-first century's most urgent human-rights issues. It posed a challenge to the human rights of hundreds of thousands of people, to public health, and — because of its link to crime — to the security and stability of nations. The Special Rapporteur had been right to stress the importance of addressing demand for trafficking, which was a problem for destination and source countries alike. Women and children working in the sex industry were often charged with prostitution rather than being given assistance. The international community must stop treating the victims as criminals.

41. His delegation also welcomed the Special Rapporteur's intention to follow up on complaints, and her comments on the role of children were also very important, as children in sex tourism were one of the driving forces for trafficking. All countries must consider ways to stop international trafficking through cooperation. The United Nations could play a major role in those efforts, armed with its Protocol to Prevent, Suppress and Punish Trafficking in Persons and with its peacekeeping forces around the world. His delegation was committed to working with the Special Rapporteur to abolish slavery in the twenty-first century.

42. *Mr. Kuchinsky (Ukraine), Chairman, took the Chair.*

43. **Ms. Iamsudha** (Thailand) said that she would welcome more information about how the Special

Rapporteur planned to cooperate with the Special Rapporteur on violence against women. With respect to international-law enforcement, she noted that several initiatives had been launched, at various levels, to establish special trafficking units within national police forces, similar to those established to combat the drug trade. She wished to know whether the Special Rapporteur would study the possibility of introducing such units and, in general, whether she had yet identified any gaps in the United Nations effort to protect people against trafficking.

44. **Mr. Takase** (Japan) said that the fight against trafficking must involve protection of the victims, as well as strict laws to punish the perpetrators. He would welcome more information about how the Special Rapporteur planned to protect the victims of trafficking. The Special Rapporteur had also talked about using the Protocol to prevent trafficking as a guideline. The Protocol stated that a comprehensive international approach was required in countries of origin, transit and destination, and he would be interested to hear more about her plans in that regard.

45. **Mr. Hof** (Netherlands), speaking on behalf of the European Union, said that he would like to know more details about how the Special Rapporteur planned to cooperate with the mechanisms of the United Nations High Commissioner for Human Rights such as through the use of joint missions, joint reports or joint urgent appeals. Noting that the Beijing Platform for Action called on Governments to eliminate trafficking, he wondered what, in her view, were the most important shortcomings in the United Nations approach to trafficking and the major challenges faced. The Special Rapporteur had identified trafficking in women and children as her main focus, but he wondered how she planned to deal with the problem of trafficking in men and boys.

46. **Ms. Banzon** (Philippines), referring to the Beijing Fourth World Conference on Women and the 10-year review of its outcome to be held in 2005, asked how the Special Rapporteur planned to incorporate the gender focus in her work. In her statement to the Committee, the Special Rapporteur on violence against women had lamented the lack of information-gathering on issues within her mandate, and in that regard, her delegation wished to know how the Special Rapporteur on trafficking in persons planned to construct an information base that accurately reflected the situation with respect to human trafficking.

47. **Ms. Huda** (Special Rapporteur on trafficking in persons especially in women and children) responded to members' comments and questions. She had taken note of the suggestions of the representative of the United States, and would include the issues to which he had referred in her mandate. In reply to the representatives of Thailand and the Netherlands, she said that trafficking was an act of violence, and that she would coordinate with the Special Rapporteur on violence against women as well as with the Special Rapporteur on the human rights of migrants. Their work overlapped to a certain degree, and their cooperative efforts might include the issuance of joint reports. However, they would be coordinating with each other in order to identify their individual responsibilities.

48. With respect to the questions on law enforcement posed by the representative of Thailand, she said that any international-law-enforcement agency must ensure that the perpetrators of trafficking, not the victims, were treated as the offenders. Moreover, trafficking went beyond the use of women and children in prostitution, and even included trafficking in men as slaves. Those responsible for such practices should also be punished, but it was too early to speculate about specific mechanisms. Responding to the comments of the representative of Japan, she said that victims of trafficking should be treated not as illegal immigrants by the authorities in the destination country, but rather as people who were victims of an ordinary crime, even though they were not nationals of that country. The Beijing Platform for Action had indeed identified trafficking as one of the targeted actions, and she hoped that by 2005 she would have some constructive proposals in that regard.

49. **Mr. Nébié** (Burkina Faso) asked whether the Special Rapporteur intended to establish the link between trafficking and poverty. Since women were often forced into prostitution by poverty, the fight against poverty was part of the fight against trafficking.

50. **Mr. Saran** (India) inquired how the mandate of the Special Rapporteur would fit in with those of the High Commissioner for Human Rights and the United Nations system in general, and whether the Special Rapporteur planned to begin by identifying the gaps in the United Nations approach in order to establish the focus of her mandate and determine how it could add value to the fight against trafficking.

51. **Ms. Huda** (Special Rapporteur on trafficking in persons, especially in women and children) said that one of her priorities was to identify any gaps in the United Nations approach. She intended to give her mandate a distinct focus, and would welcome the guidance of Governments. Responding to the question raised by the representative of Burkina Faso, she agreed that trafficking was indeed linked to poverty, as well as to many other issues such as organized crime, drugs and arms.

Agenda item 105: Human rights questions (*continued*) (A/59/225, 371 and 425)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/59/255, 319, 320, 323, 327, 328, 341, 360, 366, 377, 385, 401-404, 422, 428, 432, 436 and 525)

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(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/59/36)

52. **Mr. Cherginets** (Belarus), noting that the delegation of the United States intended to introduce a draft resolution on human rights in Belarus, said that his delegation strongly opposed any attempt to politicize the Committee. It objected to the use of human-rights issues as a pretext for interference in the internal affairs of sovereign States, and rejected the practice of selectivity and double standards in the human-rights sphere. Belarus favoured revitalizing the international system of human-rights protection. However, the degree of politicization that had crept into the work of the Commission on Human Rights and the Third Committee had reached its limit. The goals enshrined in their mandates had been sacrificed to the political and economic interests of a small group of powerful States. Country resolutions were repeatedly adopted, ignoring positive achievements in human rights and undermining countries' faith in the special procedures.

53. Belarus was repeatedly confronted with the same accusations: that its Government was guilty of oppressing the mass media and was allegedly involved in the disappearance of four politicians. It was true that during the past two years, publication of two newspapers had been suspended. And yet, over the same period, almost 200 independent newspapers had been established. With respect to the issue of the four politicians, he noted that one was living in London and one in Washington, and that information that might help solve the cases of the other two was being kept from Belarus and the international community. The Belarus Parliament was accused of lacking authority, and yet it rejected 1 in 10 draft laws submitted by the President and the Government, and approved the country's major political appointments.

54. Substantial administrative pressure had indeed been used during the country's recent parliamentary elections, but the source of that pressure was not the Government of Belarus but Western European countries and the United States; and the latter had allocated many millions of dollars to finance opposition parties. Moreover, numerous international observers had testified to the transparency of the voting process. Belarus would condemn the draft resolution to be introduced by the United States as unacceptable to the United Nations.

55. **Mr. Cho Tae-ick** (Republic of Korea) said that, despite concerted efforts, the task of achieving universal respect for human rights remained daunting, and lamentable human-rights violations persisted wherever the international community turned a blind eye to repressive regimes. With respect to the situation in the Darfur region of the Sudan, the Republic of Korea fully supported the recommendations of the High Commissioner for Human Rights for resolving the crisis (A/59/36, paras. 5 and 6). It was imperative that international human-rights laws should be translated into genuine actions within each nation's local context.

56. The Republic of Korea was endeavouring to build a democratic society in which human rights were fully respected, and the President had recently announced his intention to abolish the controversial National Security Law. Human-rights standards in the country had continued to improve, thanks to the Government's reform efforts. The independent National Human Rights Commission had played a pivotal role in advancing human rights, and was currently drafting a human-rights action plan. The achievement of human rights required enabling conditions such as good governance; his country had recently held a seminar on

that theme, and hoped that its outcome would be widely disseminated. The Government also believed that education was the most effective way to prevent human-rights abuses and supported the idea of proclaiming a world programme for human-rights education, to begin on 1 January 2005 as a follow-up to the first United Nations Decade for Human Rights Education, 1995-2004.

57. The Republic of Korea was determined to go on playing its part in efforts to ensure that international human-rights standards were translated into reality for people everywhere.

58. **Ms. Wong** (United States of America) said that her Government was glad to see that Belarus had sent a high-level delegate to attend the Committee's discussion of human-rights issues, and hoped that some of the principles and standards discussed by the Committee would be put into practice in Belarus. Her Government continued to be concerned at the situation of human rights in Belarus, and had consistently raised its concerns with the Government of Belarus. After devoting considerable time to the human-rights dialogue, the United States had supported the Commission on Human Rights resolution 2003/14 on the situation of human rights in Belarus. A similar resolution (2004/14) had been passed in 2004. Owing to concerns about continued human-rights violations and the recent flawed and unfair elections in Belarus, her delegation found it appropriate and necessary to bring a similar draft resolution before the Third Committee.

The meeting rose at 5.30 p.m.